

## 10.1.2 Finalizing the Permit/Documentation for the Draft Permit/Fact Sheets

### **Applicability:**

Fact sheets present the major facts and considerations, along with the primary methodologies, legal provisions and policies, taken into account during the development of a draft permit.

### **Content:**

The requirement for Fact Sheets and a listing of their content is presented in the Code of State Regulations at 10 CSR 20-6.020(1)(A)2. This section of the state regulation is consistent with, but less detailed than, the corresponding provisions in the federal regulations. The Code of Federal Regulations in sections applicable to State Programs provides a fuller explanation of Fact Sheets and their contents. These are outlined below.

The Code of Federal Regulations (40 CFR 124.8(a)) requires a Fact Sheet for every draft permit for a:

- major NPDES facility or activity;
- Class I sludge management facility;
- general permit;
- draft permit that incorporates a variance;
- draft permit that requires an explanation under 40 CFR 124.56(b) related to toxic pollutants, internal waste streams, indicator pollutants, certain technology-based limitations set on a case-by-case basis, limitations set to protect from toxic pollutants in sewage sludge, new source discharges to water quality limited stream segments, waivers from monitoring for pollutants previously demonstrated not to be present, or allowing a separate permit for privately owned treatment works; and
- draft permit that is the subject of widespread public interest or raises major issues.

The required contents of a Fact Sheet are specified in 40 CFR 124.8 and 124.56. Fact Sheets must contain:

- A brief description of the facility or activity that is the subject of the draft permit;
- The type and quantity of wastes that are proposed to be or are being discharged;
- A brief summary of the basis for the draft permit conditions referring to statutory, regulatory or other supporting materials;
- Reasons why any requested variances or alternatives to required standards do, or do not, appear to be justified;
- A description of the procedures for reaching a final decision, including beginning and ending dates of the public comment period, mailing address of and other means to contact office receiving comments, how to request a hearing and the nature of a hearing, and any other process for public participation;
- Name, telephone and other methods of communication with the person to contact for information;

- Justification for waiver of any application requirements;
- Detailed explanation of the derivation of the effluent limits and the conditions for sludge use or disposal, including references to guidelines and standards considered and their applicability or lack thereof, and an explanation of how alternative effluent limits were developed;
- An explanation of the reasons for limitation of toxic pollutants, internal waste streams, indicator pollutants, certain pollutants on a case-by-case basis and discharges to water quality limited streams;
- An explanation of any waiver from monitoring requirements;
- For a privately owned treatment works, an explanation of the decision to regulate the facility and its user(s) under a separate permit;
- When appropriate, a sketch or detailed description of the location of the discharge or regulated activity; and
- For permits that include a sewage sludge land application plan, a description of how each of the required elements is addressed in the permit.

Detailed discussion of the derivation of each effluent limit should be included in the Fact Sheet. This discussion should address the calculations and assumptions related to production and flows and whether the limits are based on BPT, BCT or BAT effluent guidelines, WQBELs or BPJ. The water quality standards considerations should be described. Any limits that serve indicators for other pollutants should be identified and discussed. Appropriate waste load allocation studies, guidance documents and other references should be cited and methods for accessing them provided.

It is also important that the Fact Sheet serve as a record of what is not included in the draft permit and why this is so. Examples of this include use of BPJ to develop the limits instead of a technology-based effluent guideline or WQBEL, not including biomonitoring, not limiting pollutants reported as present in the application, or not limiting a pollutant that was limited in a previous permit.

The Fact Sheet is provided to the applicant, is included in the public notice along with the draft permit and is provided to anyone who requests it. It is the primary means of documentation and support of draft permit provisions and providing the rationale for its development. It will be a key document in any challenge or appeal. The Fact Sheet also documents the decision-making process for the agency and can save valuable time in future permit modifications or reissuance.

## **Legal References:**

### *Code of State Regulations:*

[10 CSR 20-6.020\(1\)\(A\)2](#) Public Participation, Hearings and Notice to Government Agencies - Public Participation - Draft OPs and Fact Sheets

### *Code of Federal Regulations*

[40 CFR 124.8](#) Procedures for Decisionmaking - Fact sheet

[40 CFR 124.56](#) Procedures for Decisionmaking - Fact sheet

## **Other Links:**

[U.S. EPA, NPDES Permit Writers' Manual](#), Office of Water, EPA-833-B-96-003, December 1996, especially pages 194-197

[4.4 Confidential Information](#)

[10.1.1 Documenting the File](#)

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